

REMARKS

Claims 1-46 are pending. Claims 1-46 are rejected.

Claims 21, 22, and 45 are rejected under 35 U.S.C. 112. In particular, the Office Action at page 3 asserts that “wherein the marker is not adjacent to the FPDU header” is not supported by U.S. Application No. 10/230,643, which was incorporated by reference in its entirety. Applicant respectfully draws the attention of the Examiner to said U.S. Application No. 10/230,643 at FIGS. 4 & 5, for example, in which the marker(s) 80 backward point to framing header 70. It is noted that marker(s) 80 are not adjacent to framing header 70. It is respectfully requested that the rejection under 35 U.S.C. 112 be withdrawn with respect to claims 21, 22 and 45.

Claims 1-46 stand rejected under 35 U.S.C. 103(a) as being obvious over cited documents including U.S. Patent Publication No. 2004/0073703 A1 (“Boucher”). Applicant respectfully traverses the rejection for at least the reasons as set forth below.

As previously noted by Applicant when Applicant antedated the previously asserted Culley reference in Applicant’s response of January 21, 2010, which is incorporated herein in its entirety for reference, the present application is entitled to at least the actual filing date of said U.S. Application No. 10/230,643, which is August 29, 2002.

Thus, the present application antedates Boucher which has a filing date of September 27, 2002.

It is therefore respectfully requested that the rejections under 35 U.S.C. 103(a) based, at least in part, on Boucher be reconsidered and withdrawn with respect to claims 1-46.

It is respectfully submitted that claims 1-46 are in condition for allowance.

Applicant does not necessarily agree with the raised rejections or objections, the Examiner’s characterization of the documents made of record, either alone or in combination, or the Examiner’s characterization of recited claim elements. Furthermore, Applicant respectfully reserves the right to argue the raise rejections or objections, the characterization of the

documents of record, either alone or in combination, to argue what is allegedly well known, allegedly obvious or allegedly disclosed, or the characterization of the recited claim elements should that need arise in the future.

Applicant respectfully reserves the right to pursue, without prejudice, subject matter that has been withdrawn, amended and/or cancelled in a continuing application, for example.

With respect to the present application, Applicant hereby rescinds any disclaimer of claim scope made in the parent application or any predecessor or related application. The Examiner is advised that any previous disclaimer of claim scope, if any, and the alleged prior art that it was made to allegedly avoid, may need to be revisited. Nor should a disclaimer of claim scope, if any, in the present application be read back into any predecessor or related application.

In view of at least the foregoing, it is respectfully submitted that the present application is in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, to charge any fee deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: October 20, 2011

Respectfully submitted,

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